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In re Application of
Beriont et al.
Application No. 08/220,953
Filed: March 31, 1994
Attorney Docket No. 903816CON1

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 7, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

The instant petition lacks item (1) and (3).

As to item (1), the Notice of Allowability mailed on February 13, 2001, also required new formal drawings. After a review of the application file, it does not appear that the drawings have been submitted thus far.

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

As to item (4), since the application has been abandoned for an extended period of time, petitioner needs to include a statement of the facts as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300
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Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.


Liana Walsh
Petitions Examiner
Office of Petitions